

Influenced and Corrupt Organizations Act (“RICO”) to arbitration, but reversed and remanded this Court’s decision to compel Plaintiff’s SOX claim to arbitration.

2. Plaintiff’s SOX claim should be dismissed as untimely.

3. SOX has a 180-day statute of limitations. Plaintiff did not file his SOX claim in this Court until on October 27, 2015, more than two-and-a-half years following his termination of employment, and did not file his SOX claim with the Occupational Safety and Health Administration of the United States Department of Labor (“OSHA”) (where it was required to be filed first, 18 U.S.C. § 1514A(b)(1)(A)) until February 23, 2018, almost five years after such termination.

4. Plaintiff’s Complaint does not adequately allege any adverse action under SOX during the 180-day window before his OSHA complaint or, for that matter, before the filing of the Complaint in this case. To the extent it is unclear from the Complaint that any allegation of an adverse action is untimely, such allegation is not adequately pled to state a plausible claim for relief.

5. Moreover, because Plaintiff continues to pursue his SOX claim before OSHA simultaneously with his SOX claim before this Court, to the extent any SOX claim is found to survive this motion to dismiss, the Court should stay this case pending resolution of proceedings before the Department of Labor.

WHEREFORE, Defendant requests that the Court dismiss Plaintiff's
Complaint.

Dated: October 8, 2019

Respectfully submitted,

/s/ Christen L. Casale

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